

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
P.C. 02/26/03      Item 3.c.

File Number  
SF 02-042

Application Type  
Single-Family House Permit

Council District  
06

Planning Area  
Central

Assessor's Parcel Number(s)  
261-18-050

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Erin Morris

Location: southeast corner of Morse Street and Naglee Avenue (698 Morse Street)

Gross Acreage: 0.15

Net Acreage:

Net Density: 8 DU/AC

Existing Zoning: R-1-8 Residence

Existing Use: Single-family detached residence

Proposed Zoning: No Change

Proposed Use: Remodel of existing residence to convert an existing attic to living space and replace dormers.

### GENERAL PLAN

Completed by: EM

Land Use/Transportation Diagram Designation  
Medium Low Density Residential (8.0 DU/AC)

Project Conformance:  
☒ Yes    ☐ No  
☒ See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: EM

North: Parking lot

R-1-8 Residence

East: Single-family detached residential

R-1-8 Residence

South: Single-family detached residential

R-1-8 Residence

West: Single-family detached residential

R-1-8 Residence

### ENVIRONMENTAL STATUS

Completed by: EM

☐ Environmental Impact Report found complete  
☐ Negative Declaration circulated on  
☐ Negative Declaration adopted on

☒ Exempt  
☐ Environmental Review Incomplete

### FILE HISTORY

Completed by: EM

Annexation Title: College Park/Burbank

Date: December 8, 1925

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval  
☐ Approval with Conditions  
☐ Denial

Date: \_\_\_\_\_

Approved by: \_\_\_\_\_  
☐ Action  
☒ Recommendation

### CONSULTANT

### OWNER/DEVELOPER

Amisha Shah  
FCI Design  
421 Castro Street  
Mountain View, CA 94041

Andre Arms  
Theresa Devonshire  
698 Morse Street  
San Jose, CA 95126

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**PUBLIC AGENCY COMMENTS RECEIVED**Completed by: EM

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Department of Public Works

None received.

Other Departments and Agencies

None received

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**GENERAL CORRESPONDENCE**

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None received.

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

The applicant is requesting a Single-Family House Permit to allow 862-square feet of new habitable floor area in the attic of an existing two and one-half story, single-family residence on a 6,809 square-foot lot in the R-1-8 Residence Zoning District. The existing house is 37 feet in height and has a Floor Area Ratio (FAR) of 0.39. The proposed modifications to the house necessary to make the existing attic habitable are the addition of permanent stairs to access the attic, an upgrade of existing ceiling joists to support a floor and an increase in the size of the existing dormer windows to provide the required light and ventilation. The replacement of existing dormers on the top floor of the house is the only proposed modification visible from the exterior of the house.

The Zoning Code requires a Single-Family House Permit for a new or expanded single-family residence when the new building:

1. will have a Floor Area Ratio greater than 0.45;
2. will exceed two stories or 30 feet in height; or
3. is a designated City Landmark, listed on the Historic Resources Inventory or located in a Historic District or Conservation Area.

A Single-Family House Permit approval is required for the proposed conversion of attic space to habitable floor area because the resulting FAR is greater than 0.45 (i.e. 0.52), and because the addition of new habitable floor area is above the second story. The Zoning Code specifies that the City Council is the decision-making body for a Single-Family House Permit where the proposed house or addition is taller than two stories. This house is not a City Landmark, is not listed on the Historic Resources Inventory and is not located in an Historic District or Conservation Area.

The site is surrounded by single-family detached residential uses on the south, east and west and by a parking lot and office building to the north.

**PUBLIC OUTREACH**

A notice of the public hearing was distributed to the owners and tenants of all properties located within 300 feet of the project site. Staff has not received any comment or inquiry from the public regarding this proposal.

## ENVIRONMENTAL REVIEW

The proposed project is exempt from environmental review under Section 15301 of the California Quality Act Guidelines because it consists of alteration to an existing single-family residence.

## GENERAL PLAN CONFORMANCE

The proposed single-family residential use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8.0 DU/AC).

## ANALYSIS

This proposal involves the conversion of an attic to living area and does not result in any change to the exterior of the existing residence except for the replacement of existing dormers. The window style and frame material of the proposed dormers will match the existing windows of the house in conformance with the *Single Family Design Guidelines*. Although the proposed conversion of the attic to living area does increase the FAR and trigger the requirement for a Single Family House Permit, practically, it raises no issues of concern for staff. Due to the fact that the additional habitable square footage is contained within the existing house, staff does not anticipate neighborhood concerns regarding this proposal.

## RECOMMENDATION

Planning Staff recommends that the Planning Commission recommend that the City Council approve the requested Single-Family House Permit and that the Council include the following facts, findings and conditions in its Resolution.

## FACTS

1. The project site has a designation of Medium Low Density Residential on the adopted *San Jose 2020 General Plan Land Use/Transportation Diagram*.
2. The project site at 698 Morse Street is located in the R-1-8 Residence Zoning District.
3. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San Jose Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
4. The project includes conversion of an existing attic to living space resulting in a proposed Floor Area Ratio (FAR) of 0.52 as defined in the San Jose Municipal Code, Section 20.100.1020.
5. The existing single-family residence on the site is 37 feet in height.
6. The existing single-family residence is two and one half-stories.

7. The existing two and one-half story single-family house is not a City Landmark, is not listed on the Historic Resources Inventory, and is not located in a Historic District or Conservation Area.
8. A Single-Family House Permit is required for this application because the conversion of the attic to living space results in an FAR of greater than 0.45 (i.e. 0.52) and because the addition of new habitable floor area is above the second story. The Zoning Code specifies that the City Council is the decision-making body for a Single-Family House Permit where the proposed house or addition is taller than two stories.
9. The proposed modifications to the house necessary to make the existing attic habitable are the addition of permanent stairs to access the attic, an upgrade of existing ceiling joists to support a floor and an increase in the size of the existing dormer windows to provide the required light and ventilation.
10. The only proposed change to the exterior of the house is the replacement of existing dormer windows. The window style and frame material of the proposed dormers match the existing dormers.
11. The Single Family Design Guidelines specify that the architectural style of a new addition or modification to an existing single-family house should be generally consistent with the architectural style of the existing dwelling.
12. The project does not include demolition of 50 percent or more of the existing exterior walls as defined in San Jose Municipal Code 20.08.1305.

### **ANALYSIS OF FACTS**

1. The project is consistent with the *General Plan/Transportation Land Use Diagram* designation of Medium Low Density Residential.
2. The proposed project is in compliance with the California Environmental Quality Act (CEQA).
3. A Single-Family House Permit is required, in accordance with Section 20.44.1230, as the project proposes erection, construction, enlargement, placement or installation, or exterior alterations of a single-family house.
4. The proposed project is in substantial conformance to the *Single-Family Design Guidelines*, adopted by the City Council on December 14, 1999.

### **FINDINGS**

1. The interrelationship between the orientation, location, and elevations of the proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.
2. The orientation, location, and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

3. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on the adjacent property or properties.

### **CONDITIONS**

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
3. **Release of Permit.** No demolition of the structure may be implemented unless and until this Single-Family House Permit is released to the Building Division.
4. **Exterior Alterations.** No exterior alterations to the structure may be implemented unless and until this Single-family House Permit is released to the Building Division.
5. **Conformance with Plans.** Construction and development shall conform to approved Site Development plans entitled, "Residential Remodel – Andre Arms and Theresa Devonshire" dated October 2002, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04). Modification of the project plans prior to Final Inspection of the Building Permit shall require additional permits as deemed necessary by the Director of Planning. Following Final Inspection of the Building Permit, modification of the structure shall conform to the permit requirements of Section 20.100.1030 of the San José Municipal Code.
6. **Deadline for Commencing Construction.** This Single-family House Permit shall automatically expire one year from and after the date of issuance hereof by said Director if within such one-year period construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Single-family House Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to one year. The Permit Adjustment must be approved prior to the expiration of this Permit.
7. **Revocation.** This Single-family House Permit is subject to revocation for violation of any of its provisions or conditions.

8. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
9. **Acceptance.** The "Acceptance of Permit and Conditions" form shall be *signed, notarized, and returned* to the Department of Planning, Building and Code Enforcement within **60 days** from the date of issuance of permit. *Failure to do so will cause this permit to automatically expire regardless of any other expiration date contained in this permit.*
10. **Nuisance.** As required by Title 20 of the San Jose Municipal Code, construction on this site shall be conducted in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
11. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
12. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* The permit file number, SF02-042, shall be printed on all construction plans submitted to the Building Division.
13. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
14. **Protection of Storm Drains.** No hazardous materials, paint, rinse water, or construction sediments or debris shall be allowed to enter the public right-of-way or any storm drain inlet. The storm drain system flows to the Bay.
15. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff at 277-5533 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
16. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and to the hours of 8:00 a.m. to 7:00 p.m. on Saturdays, Sundays and legal holidays, except that construction may occur at any hour within a totally enclosed building if such construction is not audible at the property line and does not result in a public or private nuisance.